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C O N F I D E N T I A L BOGOTA 003621

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SUBJECT: Unfinished Business: Reelection, Prosecutor General, Intel Agency, Victims, & Political Reform

REF: A) BOGOTA 3485; B) BOGOTA 3593; C) BOGOTA 3283; D) BOGOTA 3035
E) BOGOTA 2065; F) BOGOTA 3408

CLASSIFIED BY: William R. Brownfield, Ambassador; REASON: 1.4(B), (D)

Summary

¶1. (U) Although the Colombian Congress managed to pass the national budget and an extension of the "war tax" before adjourning in December 2009, the legislative and judicial branches left a number of important initiatives for the new year. These include: a Constitutional Court decision on whether the referendum to modify the Constitution to allow President Uribe to run for a third term can go forward; the selection by the Supreme Court of one of the Uribe Administration's three candidates to fill the long-vacant Prosecutor General position; and laws restructuring the Administrative Department of Security (DAS) intelligence agency, providing reparations for victims of organized crime and terrorism, expanding the scope of the Justice and Peace Law, and implementing a range of essential political reforms. Legislative inaction coupled with the continued fallout of the massive parapolitical scandal (where congresspersons received funding from or collaborated with paramilitary and other criminal groups) led news weekly "Semana" to dub this the "Congress of Shame." Congress is not scheduled to resume until March 16, so most of these essential initiatives will continue to languish for months. End Summary.

Can Uribe Run for Reelection?

¶2. (U) Over two years ago, supporters of President Uribe began collecting 3.9 million signatures to convoke a referendum to determine whether the Constitution should be amended to allow him to run for a third term. The referendum's fate moved into the hands of the Constitutional Court in September 2009, after approval by the Congress (ref A). Over the past three months, there has been rampant speculation as to whether the Court would find a flaw in the referendum process or allow it to move forward. While Uribe has several supporters in the Court, it remains unclear whether

there are enough supporters of reelection. The Court adjourned for the year without a decision, and the Inspector General also left for vacation without submitting his required report on the matter to the Court. Uribe also refrained from announcing whether he intends to run for reelection.

¶3. (C) Presidential Advisor Jorge Mario Eastman told Polcouns on December 18 that reelection was increasingly less likely given the buildup of intellectual opposition, both in the press and in briefs filed before the Court. He predicted the Court would decide in the first half of February. However, Vice Minister of Defense Sergio Jaramillo announced his resignation on December 17, telling the Charge d'Affaires that Uribe's quest for a third term contradicted the GOC's Democratic Security program focus on institution building (ref B). (Note: Coincidentally, Eastman was named Jaramillo's replacement on December 22. End Note.) An opposition politician lamented to Poloff on December 5 that, in the end, the Court would not stand in the way of bringing the reelection question to the people. If the referendum goes forward, Uribe's 70% approval rating and December polls on referendum intentions indicate that the majority would vote in favor. However, the challenge would be securing the required minimum voter turnout of 7.3 million (25% of the electorate). Each passing day makes the referendum more difficult logistically, but Uribe supporters still hope it can be

held on March 13.

¶4. (C) The uncertainty over Uribe's candidacy has overshadowed national politics. The opposition does not know whether it will face the formidable Uribe, so individual candidates are hesitant to form coalitions at this point. Most pro-Uribe aspirants publicly state they support his reelection and will not run if he is a candidate, while they still carry out campaign activities, conscious that little time remains before the May 30 presidential elections.

No Prosecutor General

¶5. (SBU) The three-year "train crash" between the Uribe Administration and the Judiciary reached a crescendo this year over the selection of a new Prosecutor General (ref C). The Constitution requires the Supreme Court to select a Prosecutor General from a list of three names submitted by the President. The Supreme Court has repeatedly refused to select any of President Uribe's nominees, citing a lack of qualifications or impartiality. The key position has been vacant since July 31. Uribe replaced two of the nominees in November, and, during its final session of 2009, the Supreme Court scheduled their televised hearings for January 21. There are some signs that the branches are moving towards a truce, including Minister of Interior and Justice Fabio Valencia Cossio's announcement December 6 that the GOC would agree to an independent study on the creation of a separate Ministry of Justice. If all goes smoothly, the new Prosecutor General could take office by March.

¶6. (C) The United Nations and others are concerned that the lack of a Prosecutor General is hindering the Justice and Peace process, as well as full implementation and fine-tuning of the accusatory system in Colombia's courts. It is possible that the Acting Prosecutor General and his 22,000 subordinates are somewhat reluctant to launch high-profile investigations, make difficult decisions, or enact reforms because of the uncertainty surrounding the start date and identity of their new boss. However, the Supreme Court's stance was welcomed by many who fear that the reelection of President Uribe has deteriorated the balance of

powers among the branches.

Intelligence Agency Yet
to Rise from the Ashes

¶7. (C) The media labeled the surveillance of judges, opposition politicians, journalists, and NGOs by the GOC's Administrative Department of Security (DAS) the "scandal of the year." The domestic and international fallout led Uribe to announce in September that the DAS would be liquidated (ref D). Uribe submitted a bill to Congress abolishing the DAS (which as a cabinet level organization cannot be abolished by executive order) and establishing a new, smaller agency dedicated only to intelligence, counter-intelligence, and immigration control. Other current DAS functions are being transferred to the National Police and Prosecutor General's Office. However, Congress failed to pass the law this year, due in part to the political costs of affecting the jobs of DAS' 6,500 personnel months before national elections.

Benefits for Victims
& Demobilized Stalled

¶8. (SBU) The GOC and opposition agree that a "Victim's Law" to compensate those who have suffered death, kidnapping, rape, and the loss of land and other assets is key to the national reconciliation process (ref E). However, the issue was put on the backburner during the recent legislative session due to irreconcilable differences between the opposition and GOC proposals. The opposition bill offered substantially more generous financial and land reparations, and considered all victims to be equal under the law, regardless of the aggressor. The GOC argued that the opposition version was financially unfeasible. The GOC bill deferred land reparation to separate legislation and provided more limited financial compensation to victims of guerrillas and paramilitaries -- victims of state agents would only receive benefits if the perpetrators were convicted in court. Legislative leaders on both sides vowed to take up the issue next year, but differences are likely to be intensified by the campaign season.

¶9. (SBU) For the demobilized, the GOC submitted a bill seeking to modify the 2005 Justice and Peace Law to increase the scope of persons eligible for reintegration benefits. Under the original text, only acts prior to July 25, 2005 were covered. The new proposal covers any act prior to the individual's demobilization and would add 25,000 former paramilitaries and guerrillas to those receiving benefits. High Commissioner for Reintegration Frank Pearl publicly lamented the delay saying it will hinder reintegration, a key element of the peace process. Meanwhile, opposition politicians complain that more criminals would receive assistance instead of victims who await reparations. Senate President Javier Caceres said there was no vote on the bill in order to allow Senators time to analyze its scope and content in more detail. The media cites fears that demobilized criminals would reveal ties to legislators as the real reason for Congress' inaction.

Toothless Political Reforms

¶10. (SBU) The Congress' biggest failure this year was its inability to pass the implementing law for political reforms approved earlier in the year. While the original law made a few improvements, the implementing law was necessary to establish penalties for candidates and parties who receive support from criminal groups, to reform campaign finance rules (including increasing transparency), to clarify state funding of campaigns, to regulate lobbying, and to establish quotas to increase women's participation (ref F).

Largely due to the high rate of absenteeism in the Congress and the apparent reluctance of legislators to penalize themselves, the deadline passed for the reforms to apply to the March 14 congressional elections. Minister Cossio said the GOC did everything in its power to advance the legislation and warned political parties that "all of the sanctions" would be in force for the next elections, including loss of official status and state funding for parties that endorse candidates who are found to collaborate with illegal armed groups. However, without clear legislation, any action taken by the GOC to impose sanctions would likely face lengthy court challenges. Criminal influence and avoiding a repeat of the parapolitical scandal are the top concerns going into the March congressional elections. Hopefully, the Congress will act in 2010 so that the reforms will apply to the 2011 local and regional elections.

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